# CERTIFICATE DENYING LEAVE TO APPEAL

**STATE OF NEW YORK**
**COURT OF APPEALS**

BEFORE: HON. JACOB D. FUCHSBERG, Associate Judge.

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THE PEOPLE OF THE STATE OF NEW YORK

against

RALPH TUTINO

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I, JACOB D. FUCHSBERG, Associate Judge of the Court of Appeals of the State of New York, do hereby certify that, upon application timely made by the above-named appellant for a certificate pursuant to CPL 460.20 and upon the record and proceedings herein,* there is no question of law presented which ought to be reviewed by the Court of Appeals and permission to appeal is hereby denied. Insufficient ground indicated for an oral hearing of this application.

Dated at New York, New York
May 21, 1982

s/Jacob D. Fuchsberg

Associate Judge

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*Description of Order: Order of the Appellate Division, First Department, dated April 13, 1982, affirming judgments of the Supreme Court, Bronx County, rendered July 9, 1980.

**Order of Appellate Division, First Department**

At a term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York, on April 13, 1982

Present—Hon. Theodore R. Kupferman, Justice Presiding; Leonard H. Sandler, Max Bloom, Arnold L. Fein, Sidney H. Asch, Justices.

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13273-82

The People of the State of New York,
Respondent,

-against-

Ralph "The General" Tutino,
Defendant-Appellant.

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Appeals having been taken to this Court by the defendant-appellant from the judgment of the Supreme Court, Bronx County (Warner, J.), rendered on July 9, 1980, convicting defendant of criminal usury in the first degree and from the judgments of said court (Kapelman, J.), rendered on July 9, 1980, convicting defendant of criminal usury in the first, grand larceny in the first degree and conspiracy in the fourth degree,

And said appeals having been argued by Arnold E. Wallach of counsel for appellant, and by Allen H. Saperstein of counsel for respondent; and due deliberation having been had thereon,

it is unanimously ordered that the judgments so appealed from be and the same are hereby affirmed.

ENTER:

JOSEPH J. LUCCHI, Clerk.

**Decision of Court of Appeals, NYLJ January 19, 1981**

1333. MATTER OF TUTINO, ap. (Warner, res)—Motion to dismiss the appeal herein granted and the appeal dismissed, without costs, for mootness.

**Order of Appellate Division, First Department**
**Entered June 26, 1980**

At a term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York, on June 26, 1980

Present—Hon. Francis T. Murphy, Jr., Presiding Justice; Theodore R. Kupferman, Arnold L. Fein, Joseph P. Sullivan, John Carro, Justices.

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8620
[M-2345]

In the Matter of a Petition of RALPH TUTINO, Petitioner, For a Judgment Under Article 78 of the CPLR in the Nature of a Writ of Prohibition, Forever Prohibiting and Restraining Respondents from Prosecuting Petitioner for Criminal Usury in the First Degree, a Class C Felony, Under Section 190.42 of the Penal Law, Grand Larceny in the First Degree Under Section 155.40 P.L., a Class C Felony (Larceny by Extortion) and Conspiracy in the Fourth Degree, Section 105.10, P.L., a Class E Felony,

-against-

THE HONORABLE IVAN WARNER, A Justice of the Supreme Court, Held in and for the County of Bronx, Criminal Term, Part 20 and the Several Justices Presiding in Parts Held for the Trial of Indictments in the Supreme Court, Bronx County, and the HONORABLE MARIO MEROLA, District Attorney of Bronx County and his Several Assistants,

Respondents.

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The above-named petitioner having presented a petition to this Court praying for an order, pursuant to Article 78 of the

Civil Practice Law and Rules, prohibiting and restraining the respondents from prosecuting and trying the petitioner for the crimes of usury in the first degree, extortion in the first degree, and conspiracy in the fourth degree, as described in the petition; providing further for a stay pending the hearing and determination of this proceeding, so that during the pendency hereof the respondents cannot try the petitioner on all the untried indictments set forth in the petition, or otherwise, staying the respondents from taking any further action with respect to the said untried indictments and for other relief,

And said proceeding having been argued by Messrs. Arnold E. Wallach and Murray Appleman of counsel for petitioner, and by Messrs. Charles L. Bach, Jr. and David H. Fromm of counsel for respondents; and due deliberation having been had thereon,

it is unanimously ordered that the application be and the same hereby is denied and the petition dismissed, without costs and without disbursements.

ENTER:

JOSEPH J. LUCCHIL, Clerk.